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09/498,515	02/04/2000	Howard G. Page	1285	8911

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EXAMINER	
RETTA, YEHDEGA	

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/498,515
Filing Date: February 04, 2000
Appellant(s): PAGE ET AL.

Gregg Jansen
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 7, 2006 appealing from the Office action mailed February 6, 2006.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,718,551	SWIX et al.	4-2004
6,588,015	EYER et al.	7-2003

"NDS: NDS' XTV (TM) time shifting technology empowers the viewer and the broadcaster" M2 Presswire, pNA, Sept 10, 1999,

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-8, 10-18, 20-23, 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swix et al. U.S. Patent No. 6,718,551 in view of "NDS: NDS' XTV(TM) time shifting technology empowers the viewer and the broadcaster", M2 Presswire, Sep 10, 1999, (hereinafter XTV(TM)) and further in view of Eyer et al. (US 6,588,015).

Regarding claims 1, 6-8, 11, 12, 16-18, 21, 22 and 26, Swix teaches selecting video advertising that has a subject matter relation to the selected video content requested by the target viewer; inserting the selected video advertising, into the video stream that transfers the selected video content to the target viewer; caching the video advertising using user device, displaying the video advertising and the selected video content to the viewer; interface (see fig. 1&2, col. 6 line 26 to col. 7 line 51, col. 8 line 66 to col. 9 line 44, col. 11 line 23 to col. 12 line 20, col. 13 lines 9-54). Swix teaches transferring the video content over first transport system (channel) and the adverting over a second transport system (channel) (see col. 13 lines 9-3). Swix does not teach disabling fast-forward capability when the selected video advertising is displayed. XTV(TM) teaches a set-top-box which provides advertisers with the ability to totally prevent views from skipping ads. It would have been obvious to one of ordinary skill in the art at the time of the invention to disable the ability of fast-forward or skip forward in order to force the subscriber to view the commercials (see page 1). *STV(TM), as indicated by applicant, does not indicate how ads are skipped. Eyer teaches that it is possible to force subscriber to listen to certain commercials by disabling the ability to FAST FORWARD or SKIP FORWARD (see col. 7 line 50 to col. 8 line 12 and col. 16 lines 37-54). It would have been obvious to one of ordinary*

skill in the art at the time of the invention to disable the fast-forward or skip forward function of the set-top box of Swix, as taught in Eyer, to provide the advantage of preventing ad skipping function, taught in STV(TM).

Regarding claims 2, 13 and 23 Swix teaches inserting points in the selected video content for the selected advertisement and inserting the selected advertisement at the insertion point (see fig. 5 and col. 12 line 61 to col. 13 line 9).

Regarding claims 5 and 27. Swix teaches selecting the video ad based on a viewer profile for the target viewer (see col. 7 line 31 to col. 8 line 2, col. 8 line 66 to col. 9 line 44)

Regarding claims 10, 20 and 25, Swix does not explicitly teach re-displaying the selected video advertisements after rewinding the video content. It would have been obvious for Swix to re-display the same advertising since the advertisement selected is cached at the client set-top box and is inserted into the video stream, locally at a client side, and presented to the viewer.

(10) Response to Argument

Appellant states, in response to the final Office action, Applicants amended the claims 1,12 and 22 in a response to after final and the resulting Advisory Action admitted the claim amendments, but maintained the rejection based on the combination of Swix, XTV reference and Eyer. Appellant argues that the XTV reference should have been properly dropped from the rejection. As indicated by the Examiner The XTV reference teaches the viewer of Video on demand won't skip the ads since the XTV can totally prevent ad skipping, however the reference does not explicitly teach that the prevention of the ad skipping is done by disabling the fast-forward capability. Examiner related on the teaching of Eyer to show that the fast-forward button is disabled in order to prevent viewers from skipping the ads. Examiner decided to kip the XTV

reference since the reference anticipates the problem that viewers of Video-on-demand would skip the ads and provides the solution by preventing the ad skipping. Appellant also argues that the prior art, Swix does not teach or suggest a first and second transportation systems. Appellant also argues that the first transportation system uses greater bandwidth for video transport. Appellant's specification teaches the transport system 202 uses a faster video transfer rate than the transport system 204, so typically, the lower-speed transport system 204 is cheaper to use than the higher-speed transport system 202. Appellant's specification teaches that the video-on-demand system 200 transfers to the selected video content 201 over the transport system 202 and the advertising over the transport system 204. It is known that he bandwidth required for transmitting program signals varies with respect to the content of the program. Larger bandwidth is required to download program contents e.g., video streams, movies (video-on-demand) which are of continuous nature and of longer duration. Less bandwidth is used for advertisements, which are generally short and disjoints. Since Swix's broadcast server transmits continuous broadcast program in one channel and advertisements in another channel, it is inherent that the first channel of Swix has larger bandwidth than the second channel. Appellant also argues that the channels of Swix are not transport system. Appellant, in the background of the invention, discloses prior video systems, such as broadcast television, cable television, and satellite television. If appellant is claiming two different network systems such as one being a broadcast and one cable or satellite, the specification however does not teach such feature. Appellant claims two different transport system and the different channels or circuits of Swix are also different transport system, since the channels transport the program and/or advertisements. Appellant's specification discloses the scheduler transfers the selected video content to the

television over the link 203, the scheduler then when encounters an insertion point for the selected video content interrupts the transfer and retrieves the corresponding selected video advertisement from the storage which was transmitted via the transport system 204 to the storage. The prior art, Swix, teaches two different communication channels (two transport systems). The program broadcast running continuously on particular quadrature amplitude modulation (QAM) channel, the continue broadcast indicating the beginning of an advertisement insertion slot with a signal in the broadcasting transmission, known as the q-tone. Swix teaches the set-top boxes off-tune to the separate advertisement channel for the specified duration and tune back to the program broadcast after the advertisement insertion slot to resume watching the continuous broadcast channel. Swix further discloses the separate advertisement channel can be either another programming channel whose advertisement insertion slots coincide with program broadcast or can be a continuous stream of advertisement with no programming, same as Appellant's invention. Appellant also states that Swix does not teach only a single server, only a single system, and consequently only a single source of the video. If Appellant is arguing that Swix uses only one server, the broadcast server 105, Appellant also teaches one server i.e., the video-on-demand system 200, that includes the video content (201), that is transmitted via first transport system, and the video ads (213) that is transmitted via the (204), same as Swix. Appellant also states that Swix discloses a bandwidth saving achieved by using a single channel for delivering all video advertisement for all viewer demographic group. Contrary to Appellant's assertion, on col. 13 lines 50-55, Swix teach the advantage of off-tuning is a saving in bandwidth. Swix teaches instead of delivering a separate video stream with targeted advertisement to **each demographic group** the off-tuning uses only one continuous broadcasting

channel and tunes to other channel to deliver targeted advertising, which is understood to mean that sending only the video stream in one channel and tuning to another channel for advertisement saves bandwidth.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

YR

RETTA YEHDEGA
PRIMARY EXAMINER

Conferees:

Eric Stamber

Jean Janvier